

**Chief Justice Directive 98-05:  
Access of the Public to Documents and Materials  
in the Courts**

**Chief Justice Directive 98-05, Amended October 2, 1998**

**Supreme Court of Colorado, Office of the Chief Justice**

The purpose of this directive is to provide the public with reasonable access to Judicial Branch information while protecting the privacy interests of parties. In addition, this directive is intended to provide direction to Judicial Branch personnel in order to ensure the validity of the information that is released to the public. A public access committee is hereby created that will, in the future, provide direction for the Judicial Branch regarding release of information. This directive temporarily defines procedures by which information is released to the public, pending the adoption of other procedures upon recommendation of the public access committee.

Materials associated with court files including all books, records, documents, indexes, calendars, orders, judgments, decrees, minutes, registers of actions, (whether or not printed from ICON) and any other additional information determined by the district, county, probate, juvenile courts, Court of Appeals, and Supreme Court to properly be a part of the court file, shall be available to the public at each court respectively. Other information resident in electronic format, used by the Judicial Branch, and known as ICON (Integrated Colorado On-Line Network) or any other electronic database managed by the Judicial Branch is not available at each respective court; however, information from this database shall be made available to the public subject to the limitations of statute, rule and this directive.

**I. Public Access to Materials at Each Respective Court**

A. Any materials associated with court files, as referenced above, that are not declared to be private or confidential by statute or specific order of court, shall be open to the public for reasonable inspections at reasonable times during normal business hours, subject to the following limitations:

1. A court, for good cause shown, may order that specific records in a specific case shall not be made available to the public.
2. A court, by blanket order, may declare that certain types of materials, including but not limited to materials or exhibits which are dangerous or contraband, drugs, items whose possession is illegal, financial affidavits of parties, income tax returns filed in the court, separation agreements, property division orders, presentence reports, custody investigation reports, child abuse investigation reports, and estate inventories and appraisals which the court finds are personal and confidential to the parties and which to not fulfill any requirement of necessity of public knowledge shall not be made available to the public.
3. A court may continue to suppress publication of certain documents or files for good cause shown for a specified period, as that court may order.

B. Requests to inspect or copy the publicly accessible materials associated with court files, as referenced above, shall be made pursuant to Section 24-72-201, et. seq. (public records) and 24-72-301, et. seq. (criminal justice records).

**II. Public Access to Electronic Data of the Judicial Branch**

A. Public Access Committee. A public access committee shall be established to provide direction for the development of a policy regarding the information to be released to the public from the ICON system. The Chief Justice of the Supreme Court, by order, shall create the committee. Requests to inspect or obtain copies of the information of the Judicial Branch stored in any electronic form shall be made pursuant to the procedures described below. These procedures shall remain in effect unless or until the public access committee determines that different procedures would better serve the purpose of providing electronic data to the public while protecting the privacy interests of parties.

Except as otherwise provided in this directive, the State Court Administrator shall be the official custodian of the electronic database and shall release data subject to the direction of the committee. The committee shall develop policies and procedures as necessary to facilitate the release and provide for the accuracy of information from the electronic database while protecting the privacy interests of persons about whom information exists. The committee shall also develop policies and procedures for the cost recovery of making electronic data available to the public. The policy and procedures developed by the committee shall govern the completion of requests for information from the ICON database.

No Judicial Branch personnel shall allow a member of the public to use a computer or other machine associated with the ICON system unless it is designated as a public access terminal for access to registers of action, name index and summary financial information. The public access committee may develop policies and procedures for other public uses of such computers or machines.

B. Validity of information released to the public.

1. Court personnel will make reasonable efforts to use the standardized coding and input procedures established by the State Court Administrator's Office (SCAO).
2. Any information released in error to the public shall not be admissible into evidence in any court case.
3. If a Judicial Branch employee or the public access committee believes that information in the ICON system is inaccurate, the SCAO shall be immediately informed and such information shall not be released to the public.

C. Procedure for release of information from the ICON system.

The SCAO, as the official custodian of the electronic database, is charged with completing the following requests for information from the ICON system, consistent with the policies and procedures developed by the public access committee.

1. Bulk Requests. Requests for bulk data shall be considered those requests for information from the entire statewide trial court ICON database. The public access committee shall determine the policies and procedures for the release of bulk data pursuant to the following guidelines:
  - a. The release of such information shall not interfere with the regular discharge of the duties of the courts, probation or the state court administrator's office.
  - b. Information shall not be released if contrary to the public interest. Until such time as the committee develops such procedures the custodian of the record may only release bulk data in the form in which the data is currently maintained if the release does not interfere with the duties of the courts, probation or the state court administrator's office; and if the data is accurate and complies with confidentiality

requirements.

2. Individual Case Requests. Except for the release of registers of action, name index, and financial summaries which shall be released by the local court, requests for information from the electronic database on individual cases shall not be completed until such time as an approved program is developed, that allows for "public" information to be printed from the electronic database on an individual case. Any inquiries about such requests should be directed to the SCAO.

3. Requests for Composite Information. Requests for composite information shall be considered those requests for selected data elements from the ICON database, which involve the manipulation of five files or less. For purposes of this directive a file contains related pieces of data that are stored in a database file, and is typically referred to as a file. ICON maintains numerous files such as, an event file, a charge file, a party file, etc. Such requests shall be completed following an assessment of the feasibility of the specific request based on policies and procedures established by the public access committee. The report format shall be determined by the SCAO. The SCAO shall assess each request and determine the cost to be assessed for completion, and the time it will take to complete. The SCAO shall inform the requestor of the cost and time within seven working days of the request.

a. Any person or entity making a request for composite information from the ICON system shall submit such request on a prescribed form.

b. Prior to the release of any information, the requestor must sign a statement that any records pertaining to criminal justice matters will not be used for the direct solicitation of business for pecuniary gain.

c. Records may be sealed, expunged, or suppressed after the data is released. The requestor is responsible for checking the current status of data prior to re-releasing it to other parties.

4. Pre-existing aggregate reports. The public access committee shall determine which of the existing reports may be released at the local level.

### **III. Electronic Data Excluded from Release to the Public**

In addition to any policies developed by the public access committee, the following information on the ICON system shall not be released to the public.

A. Probation ICON files;

B. Financial Files - everything except the financial summary screen;

C. Files/fields/codes related to running a computer program;

D. Files/fields/codes concerning the deliberative process;

E. Free text fields;

F. The following case types: 1. Juvenile (JA, JD, JN, JP), 2. Mental Health (MH)

G. Suppressed, sealed or confidential files, data or information;

H. Social Security Numbers;

I. Codes and information related to victims of crime;

J. Any electronic information that is not on the ICON system;

K. Draft opinions, notes, or internal memos.

This directive supercedes directive 85-16.

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Mary J. Mullarkey, Chief Justice Date

### **Policy Attachments to Chief Justice Directive 98-05**

**CJD-98-05****Amended Public Access Policy 98-02, Amended November 17, 2000****Public Access Committee Policy Concerning the Release of Composite Data**

This policy is adopted pursuant to the authority granted to the Public Access Committee by Chief Justice Directive 98-05 to establish policy concerning the release of composite data and is consistent with that Directive unless otherwise specifically indicated. Composite data are the specific data elements within the ICON database. It is the policy of the Judicial Branch to supply non-confidential information to the public from the ICON database. This statement identifies the policy of the Judicial Branch in that regard.

This policy is intended to provide guidance to the Judicial Branch as it responds to requests for information. It is effective when Internet access to live data is available.

Composite information will be released by the State Court Administrators Office, or its designated agent, under the following conditions and in the manner and form determined by the State Court Administrator.

- Only data elements contained in the ICON database which have been approved for release by the Public Access Committee shall be released.
- Composite releases will not contain any case numbers or names of parties associated with a case.
- Only the State Court Administrators Office, or the designated agent of the SCAO, shall release composite data.
- Requests for ongoing reports via composite data requests will be provided no more frequently than on a quarterly basis.
- Requests will be provided within the current resource capacity of the Judicial Branch. The State Court Administrator's Office will prioritize requests in the following manner: requests from within the Judicial Branch; requests from other agencies that are essential to complying with their statutory mandates; and, other requests including those from the media, businesses and private entities.
- The State Court Administrator shall not devote resources in excess of those, which are allocated by the legislature or replaced by recovered costs, which the Judicial Branch retains.
- The State Court Administrator shall recover all actual and reasonable costs associated with providing composite data to other agencies and public entities.
- Chief Judges, District Administrators and Chief Probation Officers shall be notified of any requests for information involving their districts that directly impact their operations.

Recipients of composite information are required to sign an agreement that includes an acknowledgement of the recipient's responsibility for checking the accuracy of the data and complying with the requirements of Section 24-72-305.5 C.R.S of the Criminal Justice Records Act. This provision prohibits the use of criminal justice records for the solicitation of business.

Adopted the 19th day of May 2000, by the Public Access Committee.

Internet access to live data became available November 17, 2000. Pursuant to the policy adopted herein, this policy is in effect as of that same date, November, 17, 2000.

Signed and dated this 16th of January 2001.

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Justice Alex J. Martinez  
Colorado Supreme Court  
Chair, Public Access Committee

**CJD-98-05****Public Access Policy 98-03****Public Access Committee Policy Concerning the Recovery of Costs Related to the Release of Electronic Data**

This policy is adopted pursuant to the authority granted to the Public Access Committee by Chief Justice Directive 98-05 to establish policy concerning the recovery of costs associated with the release of electronic data and is consistent with that Directive unless otherwise specifically indicated. This policy is effective immediately and is intended to provide guidance to the Judicial Branch as it responds to requests for information. It will be submitted for review by a broader group of interested citizens and governmental agencies. After this review the Committee will assess whether any changes to this policy are warranted and will make appropriate suggestions to the Chief Justice.

The State Court Administrator's Office shall develop a procedure for the recovery of costs associated with the release of electronic information. That procedure shall be governed by the following guidelines:

1. Costs shall be consistent with those allowed in Section 24-72-205(2) and (3) and shall include:
  - The direct personnel costs associated with programming or writing queries to supply the information.
  - The administrative personnel costs associated with providing the information.
  - The personnel costs associated with testing the data for validity and accuracy.
  - The maintenance costs associated with the hardware and software that are necessary to provide the information as expressed in Computer Processing Units (CPU).
  - The operating costs involved with providing the data on various mediums, i.e., zip disks, floppy disks, etc.
2. These costs shall be set out in a formula by the State Court Administrator's Office.
3. The State Court Administrator's Office shall establish an accounting system to track and assure the assessment and recovery of these costs.

Adopted the 14th day of December 1998, by the Public Access Committee.

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Justice Alex J. Martinez  
Colorado Supreme Court  
Chair, Public Access Committee